

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RONNIE R. MARTIN,

Petitioner,

v.

Case No. 10-C-0494

JOHN HUSZ,
RICK RAEMISCH,

Respondents.

ORDER ADOPTING MAGISTRATE JUDGE CALLAHAN'S RECOMMENDATION
ON RULE 4 REVIEW (DOC. # 6), DENYING PETITIONER'S PETITION
FOR WRIT OF HABEAS CORPUS (DOC. # 1), AND DENYING
CERTIFICATE OF APPEALABILITY

On June 11, 2010, petitioner, Ronnie R. Martin, filed a petition for a writ of habeas corpus asserting that his probation officer detained him unlawfully and initiated revocation proceedings against him in violation of his constitutional rights. Magistrate Judge William E. Callahan, Jr. issued a decision on August 25, 2010, recommending that this court deny Martin's petition and certificate of appealability then dismiss this case.

Magistrate Judge Callahan found that Martin failed to give the state courts a full and fair opportunity to review his claim and conceded that his claim was unexhausted by stating that his revocation hearing was adjourned to July 10, 2010. Moreover, Judge Callahan found that although it was his standard practice to allow petitioners the chance to supplement petitions to demonstrate exhaustion Martin's concession made it unnecessary to supplement the record. Finally, because dismissal of Martin's petition is required under the Rules Governing Habeas Corpus, Judge Callahan determined that Martin had not made the substantial showing required for issuance of a certificate of appealability.

The Recommendation directed Martin to 28 U.S.C. § 636(b)(1)(B)-(C) and Fed. R. Civ. P. 72(b)(2), and noted that he had fourteen (14) days from service of the Recommendation to file written objections for consideration by this court. However, no objections were filed. Consequently, this matter is ready for disposition.

On dispositive matters and certain other matters enumerated in 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72, including petitions for a writ of habeas corpus, a magistrate judge may only propose findings and make recommendations. A district court must review *de novo* the recommendations of the magistrate judge to which a party timely objects. 28 U.S.C. § 636(b)(1)(C); Fed. R. Crim. P. 72(b)(2), (3). However, a district court may, if it chooses, review for clear error those portions of a recommendation to which no party objects. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985), *reh'g denied*, 474 U.S. 1111 (1986); *Schur v. L.A. Weight Loss Centers, Inc.*, 577 F.3d 752, 760-61 (7th Cir. 2009).

The court has reviewed Judge Callahan's Recommendation as to Martin's Petition for a Writ of Habeas Corpus and finds no clear error. Therefore,

IT IS ORDERED that Magistrate Judge Callahan's Recommendation is adopted, and for the reasons set forth by the magistrate judge, Martin's petition for a writ of habeas corpus is denied.

IT IS FURTHER ORDERED that a certificate of appealability is denied.

IT IS FURTHER ORDERED that this case be dismissed.

Dated at Milwaukee, Wisconsin, this 14th day of April, 2011.

BY THE COURT

/s/ C. N. Clevert, Jr.
C. N. CLEVERT, JR.
CHIEF U.S. DISTRICT JUDGE